

IN THE CIRCUIT FOR FREDERICK COUNTY, MARYLAND

07/15/2020

STATE OF MARYLAND

vs.

GARY E. DAVIS

Defendant

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Case No.: C-10-CR-20-000338

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**MOTION FOR DISCOVERY**

COMES NOW the Defendant, GARY E. DAVIS, by and through his attorney, JAMES N. PAPIRMEISTER, ESQ., of the Law Offices of James N. Papirmeister, P.C., and requests of the State of Maryland the following discovery and inspection:

That the State's attorney is requested to:

1. Furnish to the defendant:

A. Any material or information which tends to negate the guilt of the defendant as the offense(s) charged;

B. Any material or information within the defendant's possession or control which would tend to reduce the defendant's punishment for such offense(s);

C. Any relevant material or information regarding specific searches and seizures including inventory searches;

D. Any relevant material or information regarding wiretaps and eavesdropping;

E. Any relevant material or information regarding the acquisition of statements, written or oral, made by the defendant;

F. Any relevant material or information regarding the acquisition of statements, written or oral, made by a witness; and

Any relevant material or information regarding pretrial  
identification of the defendant by a witness for the Government.

WITNESSES

2. Identify, giving the complete name, home and business addresses and telephone numbers of those persons whom the State intends to call as a witness at either hearing or trial to prove its case in chief, or to rebut alibi testimony, and for each witness listed, please furnish the defendant with a copy of each and every conversation or statement, written, oral or otherwise, made or given by the witnesses either at the time of the occurrence giving rise to these criminal charges or during any subsequent investigation or questioning, and please state:

- A. The date at which said statement, oral or written, was made;
- B. To whom it was made;
- C. The name of person or persons who were present at the time of the statement(s); and
- D. The nature of any tests or demonstrations performed by the police or the witness during the statement(s).

3. Identify, giving the name, home and business addresses and telephone numbers, all person interviewed in the course of the investigation of the case, including:

- A. Those which would tend to be exculpatory for the defendant;
- B. Those whom the State intends to call as witnesses;

and;

C. Those having knowledge of material facts concerning the case.

4. Identify, including the name, duty stations, and the I.D. numbers of any police department or any other government agency personnel, who participated in the investigation, pursuit, arrest or interrogation of the defendant in this case and/or search of his person or property including but not limited to, names and addresses, telephone numbers of all persons, including:

A. Each and every officer of the police department who was in the presence at any time when any witness was viewed or confronted;

B. Each and every officer of the police department and any other witness who were in the presence of the defendant when arrested and/or questioned by the police or any agent of the State; and

C. Each and every officer of the police department and any other witness who was in the presence of the defendant's property which was seized by the police in connection with this case.

5. Identify the names, addresses and physical descriptions of any other persons other than the defendant who were arrested or questioned or otherwise taken into custody by the police or prosecution officials as a possible suspect for the offense(s) with which the defendant was charged, including:

A. Each and every officer of the police department who was present at any time when any witness(es) viewed or confronted the defendant;

B. Each and every officer of the police department who was in the presence of the defendant when arrested and/or questioned by the police; and

C. Each and every officer of the police department who was in the presence of the defendant's property which was seized by the police in connection with this case.

6. Identify and produce any and all records of the Office of the State's Attorney and/or the United States Attorney's Office and/or the County or State Police, or of any other police organization, whether local, statewide, national or international, pertaining to the criminal activity and/or arrest of the defendant. Identify, including the name, duty stations of the members and the I.D. number of any police department or any other government agency, who participated in the investigation, pursuit, arrest or interrogation of the defendant in this case.

7. Identify the names, addresses and telephone numbers of all persons who have knowledge pertaining to this cause, or who have been interviewed by government agents in connection with this cause, but who are not called before the grand jury.

8. Identify and produce the written or recorded statements or the substance of any oral or other statements, including grand jury testimony of all persons who have been interviewed or

questioned by the government agents and the State, including those whom the State does and does not plan to call as witnesses.

9. Furnish the names, addresses and telephone numbers of all persons having any knowledge whatsoever of the substance of the crime alleged, regardless of whether the state/government does or does not plan to call them as a witness.

10. Identify and produce for inspection, copying, or photographing, all F.B.I., Federal Bureau of Prisons, and other governmental records of the United States Government, including records of international, federal, state and local penal institutions, pertaining to the defendant named, and all other persons the State plans to call as witnesses in this case.

11. If any tangible objects were obtained for any person or persons, other than the defendant, set forth the name or names of such persons, their addresses, and the place where such objects were obtained and the manner by which such objects were obtained, and if obtained by warrant, include any inventory prepared pursuant to Maryland Rules.

12. Set forth the name, address and telephone number of any individual, through whom information was derived which culminated in a search either with or without a search warrant, and whose information culminated in an arrest, either with or without an arrest warrant, and for each person identified, please state when this information was given, to whom it was given, by whom it was given and the manner in which it was received.

13. Identify by name and address, all persons who, during

the course of the investigation of this cause, have been offered immunity, favorable consideration, lesser pleas, or other agreements in return for testimony, information or documents. This request applies to all statements made by government agents or investigators that, if any person did not fully cooperate with the government, they would have difficulties or would be defendants in any action. Indicate the name and address of each witness who claims to have the knowledge which supports the answer to this inquiry.

14. In accordance with Giglio v. U.S., 405 U.S. 150 (1972), disclose any promises, understandings or agreements made with any witnesses to his agreement to testify in this case.

STATEMENT OF THE DEFENDANT

15. Identify and produce each written or recorded statement and the substance of each and every oral statement made by the defendant and a copy of all reports of each oral statement made by the defendant which the State intends to use at a hearing or trial, and to identify by giving the names, home and business addresses and telephone numbers of the persons who heard the statements or were within earshot of them.

16. Produce for inspection, copying or photocopying, all F.B.I., Federal Bureau of Prisons, and other governmental records of the United States Government, including records of international, federal, state and local penal institutions, pertaining to the defendant named, and all other persons the State

plans to call as witnesses in this case.

STATEMENT OF CO-DEFENDANTS AND/OR ACCOMPLICES

AND/OR ACCESSORIES AFTER THE FACT

17. Identify and furnish to the defendant a copy of each written or recorded statement and the substance of each oral statement and a copy of all reports of each oral statement made by a co-defendant, and/or accomplice and/or accessory after the fact.

18. In accordance with Giglio v. U.S., 405 U.S. 150 (1972), disclose any promises, plea agreements, reduction of charges, understandings or agreements made with or for any co-defendants, and/or accomplices and/or accessories after the fact, relating to this case or agreement to testify therein.

REPORTS OF EXPERTS

19. Identify and furnish the defendant with a copy of all written reports or statements made in connections with the particular case by each expert consulted by the State, including the results of any physical or mental examination, scientific test, experiment or comparison.

20. Identify and furnish the defendant with the substance of any oral report and conclusion with the particular case by each expert consulted by the State, including the results of any physical or mental examination, scientific tests, experiment or comparison.

21. Identify and furnish the defendant with the names of any and all chemists, technicians, pathologists and physicians, their

qualifications, education, training, background, and dates of certifications, if any, who were consulted by the State in reference to this case or to be called by the State in its case in chief.

22. Produce the results of all spectrophotometric tests performed by the State's expert witnesses.

23. Provide the defendant with the results of tests performed by the State and/or its laboratory on all samples of drugs and/or controlled dangerous substances submitted to the laboratory by the State.

24. Provide the defendant with computer program of the Hewlett Packard computers used in the quantitative analysis performed by the State's expert witnesses.

25. Provide the defendant with the laboratory manuals and the rules and regulations dealing with scientific testing in laboratories of any blood/alcohol contents, drugs or controlled dangerous substance tested by the State or to be used by the State in this case in chief.

26. Identify and provide the defendant with all memoranda prepared by the laboratory dealing with the tests which should be performed by laboratories and identification of alcohol content, cocaine, PCP, LSD, hashish, hashish oil, paraphernalia, marijuana and heroin. These memoranda should include but not be limited to, the research project number M00166 conducted by any chemists or analyst for the State.



27. Identify and produce all underlying documents used by the State's experts as a basis for their testimony.

28. Identify and produce all results of quality control tests, all repair reports on the equipment used in those tests, and all quantitative and qualitative analyses performed by the State with regard to any drugs or controlled dangerous substance obtained from the defendant.

29. Produce for independent analysis under conditions set by this Court, samples of all substances which the State alleges are contraband and/or controlled dangerous substance which were seized by the State from the defendant.

EVIDENCE FOR TRIAL USE

30. Identify and produce for the Defendant copies of any books, papers, documents, recordings or photographs which the State intends to use at the hearing or trial and if any tangible objects were obtained from any person or persons, other than the defendant, set forth the name or names of such persons, their addresses, and the place where such objects were obtained and the manner by which such objects were obtained, and if obtained by warrant, include the inventory prepared pursuant to the Maryland Rules of Procedure.

31. Identify and permit the defendant to inspect and photograph any tangible object which the State intends to use at hearing or trial.

32. Identify and produce for the defendant exact copies of

all papers, forms, statements and documents bearing or purporting to bear the signature, initials or mark of the defendant, which the State intends to introduce into evidence.

33. In accordance with Brady v. Maryland, 373 U.S. 93, 226 Md. 422, and other authorities, including applicable opinions of the various courts of the United States and of Maryland, disclose and produce any and all exculpatory evidence; disclosure and production is to be made without regard to whether the evidence is deemed admissible at trial herein.

34. Identify with particularity and produce all of the following:

- A. Fingerprints, examiner's report;
- B. Any photographs taken by police;
- C. Photographs used in any "photo lineup" procedure;
- D. Any telephone tracers, logs and/or wiretaps and results therefrom;
- E. Any electronic, video and audio tapes, transmissions, viewing, eavesdropping or video taping used in this case and the results therefrom;
- F. Any audio and/or video transmissions from other law enforcement officials who provided you with information, description or warning regarding the defendant; and
- G. Any blood samples or test results taken from the defendant.

35. Identify and permit the defendant to inspect any

photographs of possible suspects including this defendant which the police or prosecuting authorities may have exhibited to any witness for the purpose of identification of the defendant, and any other photographs that the State intends to use in the trial of the defendant, and the presentation of its case in chief, or to reflect alibi witnesses, and to furnish this defendant with copies of said photographs and the results of each viewing of said photographs.

36. Advise the defendant as to whether the defendant was confronted by identification witnesses in any manner other than a lineup while the defendant was in the custody of police or prosecuting authorities and, if so, please furnish the defendant with the time, place and circumstances of such confrontation, including the names and addresses of all persons participating in said confrontation.

37. Produce and permit the defendant to inspect and copy any warrants, affidavits, inventories, and other related papers involved in these proceedings pursuant to the Maryland Rules of Procedure.

DEFENDANT'S PROPERTY

38. Identify and permit the defendant to inspect, copy and photograph any item obtained from or belonging to the defendant, whether or not the State/Government intends to use the item at the hearing or trial.

39. Set forth whether any property was seized or taken from the defendant, including blood samples from his body, along with the manner and method by which any property was seized or taken from the defendant, and whether such seizure was accomplished as a result of the issuance of a warrant, and if obtained by warrant, include the inventories prepared.

CONFIDENTIAL INFORMANT

40. Identify and provide the defendant with the names and addresses of any informant, confidential or otherwise, who was a participant in the alleged illegal activity which is the basis for the indictment/charges, or who was a participant in the illegal act which formed any part of the basis of any warrant or process issue or executed in this case, or who was a participant in any legal or illegal act which was relied upon by any law enforcement official as probable cause to make an arrest and/or search in this case.

LAW ENFORCEMENT

41. Identify and provide the defendant with the names, addresses and assignments of any law enforcement officer, city, county, state, federal, local or municipal, who participated in any sale, purchase or negotiation for the sale or purchase of any contraband; said sale, purchase and negotiation having formed any part of the basis for the charges against the defendant or any part of the alleged probable cause for arrest or search involving the defendant.

42. Set forth, produce, or alternatively allow counsel to hear any police tapes or transmissions, radio, video, telephone or otherwise, involved in this offense, which pertain to or are relevant to the commission of said crime, the identification of the perpetrator of the alleged crime, the capture of the defendant, or other relevant matter.

43. Set forth the names, addresses and telephone numbers of each and every police, law enforcement and state or government officials, who were in any manner involved or at the scene of the investigation and arrest of this defendant and for each person named herein, please furnish a copy of any and all statement(s), written or recorded, or the substance of any oral or other statements made or given by these persons either at the time of the occurrence giving rise to these criminal charges or during any subsequent investigation, questioning, arrest, booking or incarceration of this defendant.

44. Identify and describe with particularity each and every field sobriety test and/or other demonstrative evidence or test performed by law enforcement officials on this defendant and on, or to, any witnesses to obtain information, and for each test identified here and above state the nature, type, extent and method of performance required of each test, the law enforcement official's observations and the results of each and every test performed.

CHAIN OF CUSTODY

45. Identify and produce for the defendant any law enforcement report containing the chain of custody of the person of the defendant, or his property, beginning with the time of the defendant's arrest and continuing throughout the time the defendant was in the custody of any police or prosecuting authorities.

46. In the event that law enforcement authorities did not prepare the type of report relating to the custody of the defendant, or his property, referred to in the preceding paragraph, please furnish the defendant with the names and addresses of any and all persons who had custody or control of the defendant, or his property, or who participated in the custody or control of the defendant, or his property, beginning with the arrest of the defendant, and continuing throughout the time the defendant was in custody of any police or prosecuting authorities.

GRAND JURY

47. Identify and produce a copy of the record showing the numbers of the grand jury at the time the indictment was voted, and the record of the vote on the indictment.

48. Identify and provide a copy of the record showing the number of grand jurors present during the deliberations of this indictment against the defendant, and every other person present during the days that there was a presentation of the charges

against this defendant. Include herewith, furnish the name or names of any person other than grand jurors who was present during the deliberation leading not only to this indictment, but to the identical previous indictment in this cause, if any, which was nolle prossed at the filing of this indictment.

49. If applicable, state the reasons why the original indictment was nolle prossed and replaced with the present indictment.

50. State whether the present indictment was returned by the same grand jury which returned the first indictment.

51. Furnish a copy of the grand jury transcript and proceedings, including any and all minutes, notes and recordings of the grand jury which resulted in the indictment of this defendant.

52. State the names and addresses and telephone numbers of any individuals who testified before the grand jury as to the alleged wrongdoing of this defendant.

The foregoing requests extend to material and information in the possession or control of the State's Attorney or members of his staff, and any others who have participated in the investigation or evaluation of the case and who either regularly report, or with reference to the particular case, have reported to the State's Attorney or to his/her office. The purpose of these requests is to obtain disclosure of materials and information to the fullest extent authorized and directed by Maryland Rule 4-262

and/or 4-263 and this general purpose shall supersede any language or expression which might otherwise appear to be a limitation upon the object or scope of any request. The defendant further requests the material information discovered by the State's Attorney after his initial compliance with these requests shall be furnished promptly after such discovery in accordance with Rules 4-262 and 4-263 of the Maryland Rules of Criminal Procedure. These requests in no way should be considered a waiver of the information required to be furnished by the State's Attorney's Office to the defendant without request pursuant to Rules 4-262 and 4-263 of the Maryland Rules of Criminal Procedure.

The right of a defendant to discovery in the District Court where offenses are punishable by imprisonment cannot be reduced or diminished from that which the Rules of this Court require and provide in the Circuit Court. In fact, the Committee Note to Rule 4-262 specifically states, that "this Rule is not intended to limit the constitutional requirement of disclosure by the State".

See Brady v. State, 226 Md. 422, 174 A2d 167 (1961), Aff'd. 373 U.S. 83 (1963).

The defendant avers that the above requested information is vital material and necessary to the preparation of his defense on the merits of the charges against him in the following particulars:

A. The items sought are evidentiary and the production of them is reasonable and will expedite the trial of the cause and



material aide the defendant in preparation of his defense;

B. That the material requested is exculpatory in nature;

C. That the material requested is necessary to insure that the defendant's rights to effective assistance of counsel and an effective confrontation and cross examination of the State's witnesses; and

D. That without the above requested information, counsel would be unable to provide the defendant with the best possible defense which counsel is obligated to give and the defendant is entitled to receive.

WHEREFORE, for the above assigned reasons, the defendant prays:

1. That the discovery and inspection requested herein be provided with sufficient time prior to trial.

2. And for such other and further relief as this Honorable Court may deem just and proper.

Respectfully submitted,

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JAMES N. PAPIRMEISTER, ESQUIRE  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15<sup>TH</sup> day of July, 2020, I delivered copy of the foregoing Motion for Discovery via MDEC, to the Office of the State's Attorney for Frederick County, in Frederick, Maryland.

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JAMES N. PAPIRMEISTER, ESQUIRE  
**ATTORNEY FOR DEFENDANT      CPF#8606010297**